

REMARKS

The specification has been amended at paragraphs 0005, 0205, and 0347 to include a reference to residues 193-196 of SEQ ID NO:2 as requested by the Examiner. Claim 1 has been amended to refer to the CDRs of SEQ ID NO:53. No new matter has been added.

Claims 1, 5-37, 41-46, 51-52, 55-67, 69-70, 79-86, and 97-104 are pending. Claims 22-32, 57-66, 79-86 and 97-104 have been withdrawn; Applicants respectfully request clarification as to the status of claim 56, which does not appear to have been addressed in the instant action. Claims 35-37, 41-46, 51-52, 55 and 67 have been allowed.

I. Objections to the Specification

A. The Examiner has objected to the specification as not including a sequence identifier for the peptide sequence RKKR as shown in paragraph 0347. In response, Applicants have amended paragraphs 0005, 0205, and 0347 to include a reference to residues 193-196 of SEQ ID NO:2, thereby addressing the Examiner's concern. Applicants respectfully request that the Examiner reconsider and withdraw the objection.

B. The Examiner has objected to the specification, noting that trademarks are used at pages 147, 150 and 153. In response, Applicants believe that the use of trademarks in the specification is appropriate, in that they are capitalized and include generic terminology. Since the Examiner has not identified any usages that are allegedly improper, Applicants are unable to determine the Examiner's particular concerns in order to address them. Applicants are willing to make any necessary corrections, and respectfully request clarification of the Examiner's objections in the next action so that such corrections may be made, or reconsideration and withdrawal of the objection in the event that no particular usage is alleged to be improper.

II. Rejections Under 35 U.S.C. § 112, First Paragraph

A. Percent Identity

The Examiner has rejected claims 1, 5-21, and 33-34 under 35 U.S.C. § 112, first paragraph, as allegedly not enabled. In particular, the Examiner contends that while antibodies comprising the CDRs of the scFv of SEQ ID NO:53 are enabled, antibodies having at least 85 percent identity to sequences of SEQ ID NO:53 are not.

In response, while Applicants disagree and do not acquiesce with the instant rejection, claim 1 has been amended to remove percent identity language and recite instead “comprising the amino acid sequence of the VHCDR1, VHCDR2, VHCDR3, VLCDR1, VLCDR2, and VLCDR3 domains of the scFv of SEQ ID NO:53.” As the language objected to by the Examiner has been replaced with subject matter the Examiner has acknowledged is enabled, Applicants respectfully request that the instant rejection be reconsidered and withdrawn.

B. ATCC Deposit

The Examiner has rejected claims 69-70 under 35 U.S.C. § 112, first paragraph, as allegedly not enabled, and has requested assurance that the ATCC deposit will be made available upon the granting of a patent on the instant application.

In response, Applicants’ representative hereby gives the following assurance by signature below:

Human Genome Sciences, Inc., the assignee of the present application, has deposited biological material under the terms of the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure with the following International Depository Authority: American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209 (present address). The deposit was made on November 11, 2002, accepted by the ATCC, and given ATCC Accession Number PTA-4796. In accordance with M.P.E.P. § 2410.01 and 37 C.F.R. § 1.808, assurance is hereby given that all restrictions on the availability to the public of ATCC Accession Number PTA-4796 will be irrevocably removed upon the grant of a patent based on the instant application, except as permitted under 37 C.F.R. § 1.808(b).

In light of the above, Applicants submit that the instant rejection under 35 U.S.C. § 112, first paragraph has been obviated. Therefore, Applicants respectfully request that the rejection of claims 69-70 under 35 U.S.C. § 112, first paragraph be reconsidered and withdrawn.

CONCLUSION

Entry of the above amendment is respectfully solicited. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the allowance of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an additional extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

Dated: January 22, 2008

Respectfully submitted,

/Mark J. Hyman/

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